NEW YORK STATE SENATE

THE

STENOGRAPHIC RECORD

ALBANY, NEW YORK

June 1, 1999

3:02 p.m.

REGULAR SESSION

JOHN R. KUHL, JR., Acting President

STEVEN M. BOGGESS, Secretary

P R O C E E D I N G S

SENATOR BRUNO: We're going to do a swearing in of our newest Senator, so I would ask that you repeat after me.

I, Thomas Morahan -

SENATOR MORAHAN: I, Thomas Morahan -

SENATOR BRUNO: -- do solemnly swear -

SENATOR MORAHAN: -- do solemnly swear -

SENATOR BRUNO: -- to uphold the Constitution of the United States -

SENATOR MORAHAN: -- to uphold the Constitution of the United States -

SENATOR BRUNO: -- the Constitution of the State of New York -

SENATOR MORAHAN: -- the Constitution of the State of New York -

SENATOR BRUNO: -- and to faithfully discharge the duties -

SENATOR MORAHAN: -- and to faithfully discharge the duties -

SENATOR BRUNO: -- of the office of State Senator -

SENATOR MORAHAN: -- of the office of States Senator -

SENATOR BRUNO: -- to the best of my ability -

SENATOR MORAHAN: -- to the best of my ability -

SENATOR BRUNO: -- so help me God.

SENATOR MORAHAN: -- so help me God.

SENATOR BRUNO: Congratulations.

(Applause.)

ACTING PRESIDENT KUHL: The Senate will come to order.

I ask the members to find their places, staff to find their places. I'd ask everybody in the chamber to rise and join with me in saying the Pledge of Allegiance to the Flag.

(Whereupon, the assemblage recited the Pledge of Allegiance to the Flag.)

ACTING PRESIDENT KUHL: In the absence of clergy, may we bow our heads in a moment of silence.

(Whereupon, the assemblage

respected a moment of silence.)

ACTING PRESIDENT KUHL: Reading of the Journal.

THE SECRETARY: In Senate, Sunday, May 30th, the Senate met pursuant to adjournment. The Journal of Saturday, May 29, was read and approved. On motion, Senate adjourned.

ACTING PRESIDENT KUHL: Hearing no objection, the Journal stands approved as read.

Presentation of petitions.

The Chair recognizes Senator Bruno.

SENATOR BRUNO: Mr. President, can we ask for an immediate meeting of the Rules Committee in Room 332.

ACTING PRESIDENT KUHL: There will be an immediate meeting of the Rules Committee, an immediate meeting of the Rules Committee in the Majority Conference Room, Room 332. An immediate meeting of the Rules Committee in the Majority Conference Room, Room 332.

Messages from the Assembly.

Messages from the Governor.

Reports of standing committees.

Reports of select committees.

Communications and reports from state officers.

Motions and resolutions.

The Chair recognizes Senator Wright.

SENATOR WRIGHT: Thank you, Mr. President. I wish to call up my bill, Print Number 1478, recalled from the Assembly, which is now at the desk.

ACTING PRESIDENT KUHL: The Secretary will read.

THE SECRETARY: Calendar Number 1032, by Senator Wright, Senate Print 1478, an act to amend the Real Property Tax Law.

SENATOR WRIGHT: Mr. President, I now move to reconsider the vote by which this bill was passed.

ACTING PRESIDENT KUHL: The Secretary will call the roll on reconsideration.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 48.

ACTING PRESIDENT KUHL: Senator

Wright.

SENATOR WRIGHT: I now offer the following amendments.

ACTING PRESIDENT KUHL: The amendments are received and adopted.

Senator Wright.

SENATOR WRIGHT: Mr. President, on behalf of Senator Johnson, I wish to call up Bill Print Number 2785, recalled from the Assembly, which is now at the desk.

ACTING PRESIDENT KUHL: The Secretary will read.

THE SECRETARY: Calendar Number 304, by Senator Johnson, Senate Print 2785, an act to amend the Agriculture and Markets Law.

SENATOR WRIGHT: Mr. President, I now move to reconsider the vote by which this bill was passed.

ACTING PRESIDENT KUHL: The Secretary will call the roll on reconsideration.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 48.

SENATOR WRIGHT: Mr. President, I now offer the following amendments.

ACTING PRESIDENT KUHL: The amendments are received and adopted.

Senator Wright.

SENATOR WRIGHT: Mr. President, on behalf of Senator Volker, I wish to call up Bill Print Number 1592, recalled from the Assembly, which is now at the desk.

ACTING PRESIDENT KUHL: The Secretary will read.

THE SECRETARY: Calendar Number 82, by Senator Volker, Senate Print 1592, an act to amend the Penal Law and others.

SENATOR WRIGHT: Mr. President, I now move to reconsider the vote by which this bill was passed.

ACTING PRESIDENT KUHL: The Secretary will call the roll on reconsideration.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 48.

SENATOR WRIGHT: Mr. President, I now offer the following amendments.

ACTING PRESIDENT KUHL: The amendments are received and adopted.

Senator Wright.

SENATOR WRIGHT: Mr. President, on behalf of Senator Fuschillo, I wish to call up Bill Print Number 557, recalled from the Assembly, which is now at the desk.

ACTING PRESIDENT KUHL: The Secretary will read.

THE SECRETARY: Calendar Number 161, by Senator Fuschillo, Senate Print 557, an act to amend the Real Property Tax Law.

SENATOR WRIGHT: Mr. President, I now move to reconsider the vote by which this bill was passed.

ACTING PRESIDENT KUHL: The Secretary will call the roll on reconsideration.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 48.

SENATOR WRIGHT: I now offer the following amendments.

ACTING PRESIDENT KUHL: The amendments are received and adopted.

Senator Wright.

SENATOR WRIGHT: Mr. President, on behalf of Senator Fuschillo, I wish to call up Bill Print Number 1090, recalled from the

Assembly, which is now at the desk.

ACTING PRESIDENT KUHL: The Secretary will read.

THE SECRETARY: Calendar Number 712, by Senator Fuschillo, Senate Print 1090, an act to authorize the Amityville Apostolic Overwhelming -- Overcoming Holy Church of God.

SENATOR WRIGHT: Mr. President, I now move to reconsider the vote by which this bill was passed.

ACTING PRESIDENT KUHL: The Secretary will call the roll on reconsideration.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 48.

SENATOR WRIGHT: Mr. President, I now offer the following amendments.

ACTING PRESIDENT KUHL: The amendments are received and adopted.

Senator Libous.

SENATOR LIBOUS: Mr. President, I'd like to remove the sponsor star from Calendar Number 204 and 223.

ACTING PRESIDENT KUHL: Stars are removed from Calendar Number 204 and 223 at

the request of Senator Libous.

Senator Seward.

SENATOR SEWARD: Yes. Mr. President, amendments are offered to the following Third Reading Calendar bill, sponsored by Senator Rath, on page 33, Calendar Number 793, Senate Print Number 4390. Also by Senator Rath, on page Number 37, Calendar Number 837, Print Number 722A.

By Senator Skelos, on page 49, Calendar Number 1003, Print Number 5275.

By Senator LaValle, on page 54, Calendar Number 1068, Senate Print Number 5206.

And by Senator Volker, on page number 45, Calendar Number 943, Senate Print Number 3171.

Mr. President, I move that these bills retain their place on the order of third reading.

ACTING PRESIDENT KUHL: The amendments are received and adopted. The bills will retain their places on the Third Reading Calendar.

Senator Trunzo.

SENATOR TRUNZO: Mr. President, please put a sponsor star on Calendar Number 640.

ACTING PRESIDENT KUHL: 640, Senator Trunzo?

SENATOR TRUNZO: On today's calendar, Mr. President.

ACTING PRESIDENT KUHL: Calendar Number 640 is starred at the request of the sponsor.

Senator Breslin.

SENATOR BRESLIN: Mr. President, on page 31 I offer the following amendments to Calendar Number 766, Senate Print Number 2966, and ask that said bill retain its position on the third calendar.

ACTING PRESIDENT KUHL: The amendments are received and adopted. The bill will retain its place on the Third Reading Calendar.

Senator Bruno, we have a couple of substitutions at the desk. Would you like us to read those?

SENATOR BRUNO: Yes, please do, Mr. President.

ACTING PRESIDENT KUHL: The Secretary will read the substitutions.

THE SECRETARY: On page 9, Senator Volker moves to discharge, from the Committee on Rules, Assembly Bill Number 323 and substitute it for the identical Third Reading Calendar, 226.

On page 32, Senator Skelos moves to discharge, from the Committee on Rules, Assembly Bill Number 8394, and substitute it for the identical Third Reading Calendar, 783.

On page 37, Senator Padavan moves to discharge, from the Committee on Rules, Assembly Bill Number 8301, and substitute it for the identical Third Reading Calendar, 834.

On page 49, Senator Goodman moves to discharge, from the Committee on Rules, Assembly Bill Number 741, and substitute it for the identical Third Reading Calendar, 1004.

On page 52, Senator Farley moves to discharge, from the Committee on Rules, Assembly Bill Number 8201, and substitute it for the identical Third Reading Calendar, 1041.

And on page 54, Senator Libous moves to discharge, from the Committee on Rules, Assembly Bill Number 8219, and substitute it for the identical Third Reading Calendar, 1075.

ACTING PRESIDENT KUHL: The substitutions are ordered.

Senator Bruno, if we can get a little quiet in the chamber, we're ready for the calendar.

SENATOR BRUNO: Can we at this time take up the noncontroversial calendar.

ACTING PRESIDENT KUHL: The Secretary will read the noncontroversial calendar.

THE SECRETARY: Calendar Number 36, by Senator Saland, Senate Print 1031C, an act to amend the Education Law, in relation to the protection of pupils.

SENATOR PATERSON: Lay it aside.

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Calendar Number 127, by Senator Alesi, Senate Print 84A, an act to amend the Vehicle and Traffic Law and

the Insurance Law, in relation to devoting.

ACTING PRESIDENT KUHL: The Secretary will read the last section.

THE SECRETARY: Section 4. This act shall take effect on the first day of September.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 48.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 188, by Senator Stafford, Senate Print 1932, an act to amend the Alcoholic Beverage Control Law, in relation to consumer tastings.

ACTING PRESIDENT KUHL: The Secretary will read the last section.

THE SECRETARY: Section 2. This act shall take effect on the 30th day.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 47. Nays, 1. Senator Duane recorded in the negative.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 319, by Senator Leibell, Senate Print 3012A, an act to amend the Highway Law, in relation to designating a portion.

ACTING PRESIDENT KUHL: The Secretary will read the last section.

THE SECRETARY: Section 3. This act shall take effect immediately.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 48.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 355, by Senator McGee, Senate Print 3478 -

SENATOR BRUNO: Lay it aside for the day.

ACTING PRESIDENT KUHL: Lay the bill aside for the day.

THE SECRETARY: Calendar Number 449, by Senator Padavan, Senate Print 36 -

SENATOR BRUNO: Lay it aside for

the day.

ACTING PRESIDENT KUHL: Lay the bill aside for the day.

THE SECRETARY: Calendar Number 536, by Senator Alesi, Senate Print 743A, an act to amend the Penal Law, in relation to endangering the welfare of a child.

ACTING PRESIDENT KUHL: The Secretary will read the last section.

THE SECRETARY: Section 2. This act shall take effect on the first day of November.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 48.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 549, by Senator Goodman, Senate Print 2753B, an act to amend the Penal Law and others, in relation to forfeiting.

ACTING PRESIDENT KUHL: The Secretary will read the last section.

THE SECRETARY: Section 10. This

act shall take effect immediately.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 48.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 783, substituted earlier today by the Assembly Committee on Rules, Assembly Print Number 8394, an act to amend Chapter 704 of the laws of 1991.

ACTING PRESIDENT KUHL: The Secretary will read the last section.

THE SECRETARY: Section 2. This act shall take effect immediately.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 48.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 891, by Senator Trunzo, Senate Print 4411 -

SENATOR BRUNO: Lay it aside for

the day.

ACTING PRESIDENT KUHL: Lay the bill aside for the day.

THE SECRETARY: Calendar Number 892, by Senator Trunzo, Senate Print 4414, an act to amend the Vehicle and Traffic Law, in relation to replacement.

ACTING PRESIDENT KUHL: The Secretary will read the last section.

THE SECRETARY: Section 3. This act shall take effect on the 90th day.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 48.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 894, by Senator Trunzo, Senate Print 4491, an act to amend the Public Authorities Law, in relation to resident discounts.

ACTING PRESIDENT KUHL: The Secretary will read the last section.

THE SECRETARY: Section 4. This act shall take effect immediately.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 48.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 902, by Senator LaValle, Senate Print 2760, an act to amend Chapter 246 of the laws of 1916.

ACTING PRESIDENT KUHL: There is a home rule message at the desk.

The Secretary will read the last section.

THE SECRETARY: Section 2. This act shall take effect immediately.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 48.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 949, by Senator Seward, Senate Print 4536 -

SENATOR BRUNO: Lay it aside for the day.

ACTING PRESIDENT KUHL: Lay the bill aside for the day.

THE SECRETARY: Calendar Number 961, by Senator Hannon, Senate Print 5091, an act to amend the Public Health Law and the Education Law, in relation to the administration.

ACTING PRESIDENT KUHL: The Secretary will read the last section.

THE SECRETARY: Section 6. This act shall take effect in 30 days.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 49.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 966, by Senator Wright, Senate Print 3900, an act to amend the Public Service Law, in relation to avoiding unnecessary delays.

ACTING PRESIDENT KUHL: The Secretary will read the last section.

THE SECRETARY: Section 3. This act shall take effect immediately.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 49.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1035, by Senator Maziarz, Senate Print 5477, an act to amend Section 564 of Chapter 170 of the laws of 1994.

ACTING PRESIDENT KUHL: The Secretary will read the last section.

THE SECRETARY: Section 2. This act shall take effect immediately.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 49.

ACTING PRESIDENT KUHL: The bill is passed.

Senator Bruno, that completes the reading of the noncontroversial calendar.

SENATOR BRUNO: Can we at this time take up the controversial calendar, Mr. President.

ACTING PRESIDENT KUHL: The Secretary will read the controversial calendar.

THE SECRETARY: Calendar Number 36, by Senator Saland, Senate Print 1031C, an act to amend the Education Law, in relation to the protection of pupils.

ACTING PRESIDENT KUHL: Senator Saland, an explanation of Calendar Number 36 has been requested by the Acting Minority Leader, Senator Paterson.

SENATOR SALAND: Thank you, Mr. President.

Mr. President, this bill is a bill which has been the focus of the Children and Families Committee, the focus of the committee that I chair, for some three or four years now. And we have seen it in one form or another over the course of that period of time before this house, and it has generally passed with comfortable margins, if not unanimously.

What this bill intends to do and proposes to do is to deal with the subject of abuse that occurs in the school setting, abuse that occurs where a child is sexually or

physically abused by a school employee.

Unfortunately, and for those of you who follow the clips that we receive, there's probably been somewhere in the area of about a dozen and a half reports of child sexual abuse at the hands of a school employee over the course of the past 15 months, from one tip of New York to another.

What this bill proposes to do is to establish a mechanism. The first part of the mechanism would be to require fingerprinting of all school employees, whether they be certified employees, such as teachers or school administrators, or noncertified employees, such as school personnel who may work in a cafeteria or do maintenance work or clerical work.

The purpose, obviously, is to try and determine who among those applicants are not suited to be working in close proximity with children. Now, as strange as this may seem, some two-thirds of the states and the City of New York have some type of fingerprinting in process. So if, for instance, in New York City you make

application for a position to work for the Board of Education, you're going to be fingerprinted. And if in fact that fingerprint record comes back with a hit, the likelihood is, depending upon those charges, that you are not going to be a suitable candidate.

Now, going back to 1996, the last year for which we have available data, the City of New York did 25,000 screens, and some 1200 of those screens came back positive, included people who had committed homicides, people who had committed sexual offenses. Obviously, these are not the kind of folks you want working in close proximity with children. That experience was similarly paralleled in New Jersey, which also has this type of legislation.

What we're saying today is when a parent sends a child off to school, the parent has every reason to believe -

ACTING PRESIDENT KUHL: Senator Saland. Senator Saland.

It's getting just a little noisy in here. Take the conversations out of the

chamber, please.

Excuse the interruption, Senator Saland. The floor is still yours for an explanation.

SENATOR SALAND: Thank you very much, Mr. President.

As I started to say, when a parent sends a child off to school, the parent would like to believe that the child is going to receive a quality education and it's going to be in a safe and secure environment. And unfortunately, there are far too many cases in which that environment proves not to be safe.

At one of the hearings conducted by my committee last year, we had testimony from a Ph.D., Dr. Charol Shakeshaft, who testified to the effect that some 15 percent of schoolchildren are the subject of some type of abuse during the course of their school experience. Now, those studies were conducted under a federal grant. She's one of the few people to have conducted such studies.

Every day, approximately 2.8 million students go off to school, some 1.7 million of them are outside of the City of New

York, some 1.1 million in the City of New York. And the 1.7 are unprotected, they are unprotected, 1.7 million children.

And what we're proposing to do here is to craft the mechanism that says at the beginning, at the mouth of the funnel, we're going to weed out the real bad guys and bad gals to make the environment for our children that much safer.

But we're going to go beyond that. We're going to tie to that fingerprinting requirement the requirement to report. We do not want the veil of silence and secrecy to surround events of abuse that occur in a school setting. And we know in fact that has been the case, and we want to prevent that from being a continuing practice here in the state of New York.

So we say that anybody who is a school employee who has an obligation to report -- and we include there teachers, administrators, and a host of others, as are defined in the bill -- if you fail to report, you will be found -- you will be at risk of being found guilty of having committed a

misdemeanor.

And we say to a school superintendent if that school superintendent, in order to hush up an incident in which a child has been sexually abused or physically abused, says "I'm willing to take a resignation from a teacher in lieu of having to bring on a proceeding which may bring a lot of notoriety to the community, perhaps some embarrassment. I will accept a so-called silent resignation, and then you can go on and teach in some other school district in some other part of the state" -- and again, that is not an uncommon occurrence -- we make that too a crime.

We say if you're going to engage in that type of a rather heinous agreement, that you in fact run the risk of being subjected to a felony charge for willingly sweeping under the carpet a sexual abuse or physical abuse charge of a child.

The reporting mechanisms are pretty simple. What we want to do is at the earliest possible stage introduce law enforcement. We don't want school personnel doing functions

that are appropriately the functions of law enforcement; namely, criminal investigations. Let teachers teach, let administrators administer. We don't want them tainting an investigation by getting involved in it.

There is requirements to report immediately to parents, to district attorneys, the relevant district attorneys. We require the completion of certain basic information - just a chronology of what happened, where it happened -- and that in effect being turned over to the district attorney for investigation.

We believe this bill is well-balanced. We believe this bill strikes the kind of responsive cord to the considerable amount of testimony we received last year. We believe this bill is long overdue. There is no reason to discriminate against 1.7 million children in our school systems outside of the City of New York. We should not be creating safe havens for child sexual abusers, pedophiles, and predators.

We believe this bill makes sense. It's supported by the PTA, it's supported by

the School Boards Association. And while at one time NYSUT, in a prior version, had submitted a memo in opposition, they have withdrawn their opposition. And I look forward to this house speedily and unanimously passing this bill.

Thank you, Mr. President.

ACTING PRESIDENT KUHL: Senator Paterson.

SENATOR PATERSON: Thank you, Mr. President. If Senator Saland would yield for a question.

ACTING PRESIDENT KUHL: Senator Saland, do you yield to a question from Senator Paterson?

SENATOR SALAND: Yes, Mr. President.

ACTING PRESIDENT KUHL: The Senator yields.

SENATOR PATERSON: First of all, Mr. President, I appreciate the work that Senator Saland has done on this bill. This bill has a rather rich history to it. There have been times that I haven't seen fit to support it.

But certainly this piece of legislation that we look at here today really does address a number of the issues involving the duties with respect to child abuse and - within the school system, and particularly the elimination of the silent resignation, which allowed many employees of a district to leave under a veil, to go to a different area, and often to continue abusing young people without the new entity in which they were working to be aware of what they were actually doing.

My questions on this legislation relate to the issues involving liability by the superintendent of schools, the school personnel that work within the schools and also the state -- appropriate state agencies. While we put upon them an affirmative duty to act, we are at the same time removing liability from any kind of civil action should there be found to be some negligence. Even if a person has been careless and reckless, there's no way that an action can be brought against them based on this bill.

And if Senator Saland would yield for a question, I would just like his

explanation of why we're choosing -- after all of this relevant and very effective law that we're going to pass within this bill, we would want to give these entities -- in a sense, we would actually shield them from any kind of liability in these cases.

ACTING PRESIDENT KUHL: Senator Saland, do you yield?

SENATOR SALAND: Yes, Mr. President.

Thank you, Senator Paterson, for asking that question. Because I think it's important that that in effect get a full airing.

And let me just suggest to you that what we've intended to do here, notwithstanding the memo in opposition of the trial attorneys, is to create a uniform standard, one which in effect says if you follow the directions of this statute - unlike, for instance, Section 419 of the Social Service Law, which deals with immunity for reporting child abuse cases -- what we're saying here is that if you receive allegations and you believe they are true, we want you to

report them.

It's your duty to report them. Let law enforcement make the determination as to whether in fact those allegations rise to the level of having committed a crime.

We want you to be something in the nature of a conduit. We look to you to receive the information, we look to you to determine whether or not it fits the definitions of whether abuse or sexual abuse has occurred, child abuse or child sexual abuse has occurred. And then we want you to pass that on to the next level, which effectively means law enforcement investigation. We don't want a chilling effect on your -- your duty and obligation to report.

ACTING PRESIDENT KUHL: Senator Paterson.

SENATOR PATERSON: Thank you, Mr. President. If the Senator would continue to yield.

ACTING PRESIDENT KUHL: Senator Saland, do you continue to yield?

SENATOR SALAND: Yes.

ACTING PRESIDENT KUHL: The Senator continues to yield.

SENATOR PATERSON: I can appreciate that answer, Senator, because particularly in these types of situations where reputations are involved, the possibility that it is easier to stay out of a situation, to ignore it, to take no action - it's always more appealing to the individual when the individual sees that their own conduct is in many ways going to be monitored from that point forward. And so I can understand exactly why you put this in here.

And yet, nevertheless, there have been situations where someone acted recklessly, carelessly, maybe even maliciously, to place upon another allegations of child abuse where it would certainly be seen as unfair. And this being the democracy that we have, I just didn't understand why there wasn't some way in which the person that feels victimized does not have any remedy in the courts.

And so addressing the chilling effect, I agree with you. But not leaving any

opportunity for any legal action in which an individual might protect themselves in court -- can I just ask, Mr. President, if Senator Saland would explain what the individual who's been charged in this kind of a situation's remedy is.

SENATOR SALAND: First let me suggest to you, again, that the superintendent is not determining what's true or false. He or she is merely saying "If the information I receive fits within the definition of the four corners of what I have been told is a violation of this law, it's my obligation to report it."

There's no subjective standards here. In fact, the ultimate standard is a strict liability standard, because that person can be sentenced for violation of the criminal law if he or she fails to report.

So I'm not quite sure whether you could have the kind of mechanism that you would want that would create the negligence standard that you're looking for without having a chilling effect on -- on the very purpose and essence of this agreement.

I would suggest to you that nothing would preclude a parent or a person from bringing a lawsuit. The question would merely be whether in fact the person who made the report acted in good faith and whether in fact the allegations contained in that report rose to the level of what would be defined as child sexual abuse or child physical abuse.

ACTING PRESIDENT KUHL: Senator Paterson.

SENATOR PATERSON: Thank you, Mr. President. On the bill.

ACTING PRESIDENT KUHL: Senator Paterson on the bill.

SENATOR PATERSON: By offering us this legislation, Senator Saland has really addressed an issue that has for a very long time been left without a remedy, and that is that which perfects a motivation not seen before in the law, one that would really command that there be action where there is information relating to child abuse in our school system.

All we are saying in opposition to that is that just as there are some sick

members of our society that engage in child abuse, there have been on occasion those individuals who, for whatever reasons that they might have had, would engage in an attempt to ruin the reputation of others through bogus charges of child abuse or anything else that they could find that would damage the reputation of their colleagues.

In those situations, through this legislation, there really is not a remedy that does not have a legal challenge to it based on this legislation. What we're saying is that in those situations, the person should still have the opportunity to make those who would be the causes of this kind of action liable.

Now, in terms of the regular reporting of information leading to suspicion of child abuse, we would suggest that if a person receives information and then passes it along, that it would be very well understood in any legal jurisdiction that they were really just performing a duty, particularly with this legislation enhancing the duty that is placed upon them.

But what we're saying is that if it

could be established that someone went beyond that duty, that someone not only acted recklessly but maybe even acted with malice, that there be a remedy in which the individual who is accused would have the right to go to court.

ACTING PRESIDENT KUHL: Senator Dollinger, why do you rise?

SENATOR DOLLINGER: Will the sponsor yield for a couple of questions?

ACTING PRESIDENT KUHL: Senator Saland, do you yield to a question from Senator Dollinger?

SENATOR SALAND: Yes, Mr. President.

ACTING PRESIDENT KUHL: The sponsor yields.

SENATOR DOLLINGER: Thank you.

Senator Saland, I agree with Senator Paterson's characterization. This bill has a lot of interesting and, I think, well-meaning, well-directed material in it.

But let me just ask a couple of quick questions about definitions. Does this bill apply to charter schools?

SENATOR SALAND: Yes.

SENATOR DOLLINGER: How do charter schools fall under the definition of educational setting if they're not run by the public schools?

SENATOR SALAND: There is a particular situation, if you'd take a look - the C print basically -- you may be looking at the B print or your notes may be on the B print. The bill was amended from B to C specifically to deal with charter schools.

And while you're looking, let me just come back to something that Senator Paterson said a bit earlier. There is nobody who would be precluded from commencing an action. You are -- you might not be commencing the action against the individual who was the superintendent, but the person who made the allegation to the superintendent, who merely had to determine whether or not it fell within the four corners of the definition, would be liable to any lawsuit that might be commenced by somebody who felt that they had been wrongfully accused.

That might not mean that you -- it

might mean that you would not have the deep pocket that a school district would offer, but you certainly would have the ability to go against the person who had made the allegations that resulted in the superintendent forwarding the report.

ACTING PRESIDENT KUHL: Senator Dollinger.

SENATOR DOLLINGER: Again, through you, Mr. President.

I have the C print -

ACTING PRESIDENT KUHL: Are you asking Senator Saland to yield to another question?

SENATOR DOLLINGER: Yes, I am, Mr. President. Thank you for reminding me. I'd ask Senator Saland to continue to yield.

ACTING PRESIDENT KUHL: Senator Saland, do you yield to another question?

SENATOR SALAND: Yes, Mr. President.

ACTING PRESIDENT KUHL: The Senator yields.

SENATOR DOLLINGER: I have the C print of the bill, and I notice that it talks

about educational setting. Did I miss something? Is there some other description there that I should be looking for for the inclusion of charter schools?

SENATOR SALAND: If you look at Section 10 of the bill. Section 10 of the bill constitutes, I believe, the substantial portion of the C amendment. And that provides for fingerprinting by the board of trustees of charter schools. And thereafter, they are subject to anything and everything that every other school -- whether it's a union free district, a central school district, a city school district -- is required.

SENATOR DOLLINGER: Okay. Again, through you, Mr. President, just so I make sure I understand it.

I see the reference to charter schools. That deals with Section 3, amends Section 3 of 2854, the Education Law. The provision that you're adding, which is the 23(b) section, where it talks about educational setting, simply refers to the grounds of the public school district and doesn't refer to charter schools.

I'm -- I'm -- for your reference, page 3, line 46, which is Section 5, which defines educational setting, simply refers to a public school district.

And again, through you, Mr. President. The fingerprinting requirement, which you properly point to on page 8, does deal with the charter schools and specifically requires them. But -

SENATOR SALAND: Senator Dollinger, in fairness to you, certainly the definition should have been amended to refer specifically to charter schools as well. It certainly was our intention to include it and merely was an oversight not including it there.

SENATOR DOLLINGER: Just, again, through you, Mr. President -

SENATOR SALAND: And, by the way, also, New York City's law is similarly applicable to charter schools.

SENATOR DOLLINGER: Okay. Again, through you, Mr. President -

ACTING PRESIDENT KUHL: Senator Saland, do you continue to yield?

SENATOR SALAND: Yes, Mr. President.

ACTING PRESIDENT KUHL: The Senator continues to yield.

SENATOR DOLLINGER: Is it also your intention to reach out to other private schools that are not -- that although they're chartered by the Board of Regents, they would not fall within the definition of public schools?

SENATOR SALAND: Well, we held roundtables with representatives of charter schools throughout New York. They expressed some interest. They basically determined that they wanted part of the legislation but not all of the legislation. But we told them that no, we could not really give them that type of a presentation, that they were either in for all of it or they weren't in at all.

SENATOR DOLLINGER: Again, through you, Mr. President, if Senator Saland would continue to yield.

ACTING PRESIDENT KUHL: Senator Saland, do you continue to yield?

SENATOR SALAND: Yes,

Mr. President.

ACTING PRESIDENT KUHL: The Senator continues to yield.

SENATOR DOLLINGER: The other problem that I -- the other question I have deals with contract employees in the school setting. As you know, many school systems contract out their bus service, they contract out their cafeteria service, they can contract out their bookstore service.

My question is, does this apply to those employees who would not necessarily be determined to be employees? Now, you've got a reference in there about "directly or through contract whereby such services involve direct student contact." Are you talking about those kinds of employees who would be involved in the contracting out -

SENATOR SALAND: As you're probably aware, school bus employees are already covered. School drivers are already covered, not necessarily other school-bus-related employees.

Cafeteria services, if they were contracted out, would be subject to this

provision. Being contracted out, they have direct contact with the students, they would be required to undergo this as well.

SENATOR DOLLINGER: Again, through you, Mr. President -

SENATOR SALAND: The fellow or gal who might come in to service the Xerox machine once during the course of the school year would not be required to be -

SENATOR DOLLINGER: Right. Again, through you, Mr. President.

ACTING PRESIDENT KUHL: Senator Saland, do you continue to yield?

SENATOR SALAND: Yes, Mr. President.

ACTING PRESIDENT KUHL: The Senator continues to yield.

SENATOR DOLLINGER: Is there authority in other parts of the Education Law for the fingerprinting of those contract employees as well -- school bus drivers, school bus attendants, cafeteria workers - even though they're not public employees?

SENATOR SALAND: My assumption is that -- and it's merely an assumption -- that

in the case of school bus drivers, yes, the authority is there.

SENATOR DOLLINGER: Okay. The - again, through you, Mr. President, if Senator Saland will continue to yield.

ACTING PRESIDENT KUHL: Senator Saland, do you continue to yield?

SENATOR SALAND: Yes, Mr. President.

ACTING PRESIDENT KUHL: The Senator continues to yield.

SENATOR DOLLINGER: What provision is there in this bill for what lawyers would call a probable cause determination; that is, a threshold determination about the validity of the allegations prior to triggering this process?

Is there any point at which someone could say, "Gee, Rick Dollinger is a chronic complainer about this, he was going to take a difficult math test and he triggered this all off. And it didn't -- or a quick investigation shows that there was absolutely no truth to it, and it appears to be truth beyond a compelling basis that there's no

reason to go forward. What do we do?"

SENATOR SALAND: Well, let me go back to some of the responses I had to Senator Paterson's questions. There is no such standard. There wasn't intended to be any such standard.

Our purpose was to create, in effect, a conduit which would be required to report to law enforcement, and law enforcement would make that determination. Law enforcement would determine whether or not there was probable cause.

All we wanted was these untrained school personnel to be able to identify, through forms that would be promulgated and through regulations that would be promulgated, whether or not the allegations fit within whatever the definitions were of child sexual abuse or child abuse.

And those definitions are all criminal -- virtually all criminal definitions, either coming out of the assault sections of the Penal Law, Article 130 of the Penal Law, Article 263 of the Penal Law, or the endangering the welfare of a child

section. So we think those -- the language with respect to what constitutes abuse has been pretty well tuned, pretty finely tuned, and comports well with existing criminal law.

We don't want people who are not, by training, either investigators or prosecutors determining whether or not there is sufficient basis for the law to intervene, the criminal side of the law -- the prosecutor or the police in whatever municipality it may be. We merely want them to say "What has been presented to me, according to this statute, constitutes allegations that would mean this child has been, for example, sexually abused. I therefore must report to the parent and to law enforcement."

SENATOR DOLLINGER: Again, through you, Mr. President -

ACTING PRESIDENT KUHL: Senator Saland, do you continue to yield?

SENATOR SALAND: Yes, Mr. President.

ACTING PRESIDENT KUHL: The Senator continues to yield.

SENATOR DOLLINGER: So in essence

what this bill does is this criminalizes all allegations of sexual abuse in the school setting. It eliminates the discretion of the superintendent or the vice principal or any other administrator to make a threshold determination that it wasn't child abuse.

SENATOR SALAND: By definition, the conduct -- child abuse, child sexual abuse -- is criminal.

What we're saying is we don't want school personnel to have the discretion in effect to sweep an investigation away, to in effect make it disappear. What we want them to do is to report it to the people who are trained to determine whether or not a crime has in fact occurred and whether it should be prosecuted.

We don't want them engaging in silent resignations. We don't want them telling parents, "This is too much to put your child through. Forget about it." It's happened. It's been testified to me that it's happened.

SENATOR DOLLINGER: Again, through you, Mr. President, if Senator Saland

will continue to yield.

ACTING PRESIDENT KUHL: Senator Saland, do you continue to yield?

SENATOR SALAND: Yes, Mr. President.

ACTING PRESIDENT KUHL: The Senator continues to yield.

SENATOR DOLLINGER: As you may know, Senator Saland, I've done a lot of work in this area, representing school districts in exactly this problem. My question is, what do you do if the grand jury dismisses the case, renders a no bill, and then the school district, however, would still -- as you and I have discussed a number of times, when you move from the beyond-a-reasonable-doubt standard down to the preponderance-of-evidence standard, the school district would still have a basis, under the preponderance-of-evidence standard, to move to force a resignation or to bring a prosecution against a teacher for conduct unbecoming. It may not be a crime, but it would nonetheless be conduct unbecoming.

By virtue of this, by having gone

through the grand jury process, by virtue of the dismissal of the criminal complaint or a finding of no bill on the criminal complaint, don't you prejudice the school district's ability to bring pressure on that employee to remove them at that point? Won't they - won't all the cards -- suddenly the deck shift to the other side, to the defense?

SENATOR SALAND: On the contrary, what we provide for here is that where a determination is made that there will not be a criminal prosecution, there is a summary of the charges which will be provided back to the superintendent.

The purpose of that would be for the superintendent then to make a decision - and the school board -- as to whether or not to bring a Part 83 hearing, which gets into the moral character issues which you have raised. Which is not a beyond-a-reasonable-doubt standard. Obviously, it's an administrative hearing, not a criminal hearing. But it may well be that something has occurred that can't be proven beyond a reasonable doubt but goes to the

moral turpitude or moral character, more appropriately, of the teacher.

And that data, in a summary form, would be available to the school district. And if they determine they should then go forward under Part 83, they could.

SENATOR DOLLINGER: Just on the bill, briefly, Mr. President. First of all -

ACTING PRESIDENT KUHL: Senator Dollinger, on the bill.

SENATOR DOLLINGER: First of all, I want to thank Senator Saland for his comments about this bill in response to my questions.

I think this is an area where again we're doing something that would be designed to protect our children. I'm not opposed to the notion of when serious allegations of criminal conduct, whether it's sexual abuse or physical abuse -- or, for that matter, any other criminal conduct in the school district is brought to the attention of the proper authorities.

I have a concern -- it's not enough to vote against this bill, but I have a

concern about that shifting burden of proof and how it's going to be met and how it's all going to come out in the wash, whether the criminalization or the forwarding to criminal investigation authorities will remove a tremendous amount of discretion on behalf of the school district and may actually deter the rigid enforcement of a school district's guidelines with respect to teacher conduct or other employee conduct.

And I know both of us have sort of used the Article 83 standard, teacher conduct. This bill applies to everybody, and we certainly shouldn't single out teachers. Because, in fact, it can be support personnel, it can be people in the cafeteria that are equally as guilty and equally as at fault.

My suggestions would be, really, drafting. I would go back and tighten up the language on the charter schools to make sure the bill applies there, since that's our clear intention.

I also would just offer one other draftsman question. And that is with respect to the confidentiality of records, you point

out in the bill, properly, that these will be protected from disclosure by law in this state, by -- as permitted by law or if a subpoena is produced. I would suggest the other scenario we'd have to look to is making this available to other states. Because often what happens is the teacher simply is -- gets into one of the silent resignations here in New York, departs for Pennsylvania or Vermont, and they're left wondering what the records might be -- teacher, employee, anyone.

And I think it would be appropriate to have some kind of interstate communication. We're in an age of computers, we're in an age where information can be passed. And the problem that you have of teachers leaving one district or employees leaving one district and showing up in another is just as readily apparent with all other types of employees.

So I'm going to vote in favor of the bill. I have some concerns about it, but I think that it's moving in the right direction. I hope that this either passes in total or goes to a conference committee so that those details can be worked out.

ACTING PRESIDENT KUHL: The Secretary will read the last section.

THE SECRETARY: Section 13. This act shall take effect on the first day of January.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT KUHL: Record the negatives and announce the results.

Senator Duane, for future reference, it's easier for the staff here to note members voting if they're from their seats. And the rules do call for voting from your seats.

However, I'm sure they have your notation at this point. Just for future reference, Senator.

SENATOR DUANE: I'm so tall, I don't know how they could miss me.

ACTING PRESIDENT KUHL: Announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 36 are Senators Connor, Duane, Paterson, Rosado,

Sampson, Santiago, and Schneiderman.

Ayes, 47. Nays, 7.

ACTING PRESIDENT KUHL: The bill is passed.

Senator Skelos, that completes the reading of the controversial calendar.

SENATOR SKELOS: Yes. Mr. President, is there housekeeping?

ACTING PRESIDENT KUHL: Yes, there is.

SENATOR SKELOS: Would you please recognize Senator Fuschillo?

ACTING PRESIDENT KUHL: Returning to the order of motions and resolutions.

The Chair recognizes Senator Fuschillo.

SENATOR FUSCHILLO: Thank you, Mr. President.

On page 44, I offer the following amendments to Calendar Number 932, Senate Print 4826, and ask that said bill retain its place on third reading.

ACTING PRESIDENT KUHL: The amendments to Calendar Number 932 are received and adopted. The bill will retain its place

on the Third Reading Calendar.

Senator Fuschillo.

SENATOR FUSCHILLO: Thank you, Mr. President.

I move to recommit Senate Print Number 2754, Calendar Number 433, on order of third reading, to the Committee on Education.

ACTING PRESIDENT KUHL: Calendar Number 433 is recommitted to the Committee on Education.

Senator Skelos.

SENATOR SKELOS: Mr. President, if we could return to reports of standing committees, I believe there's a report of the Rules Committee at the desk. I ask that it be read.

ACTING PRESIDENT KUHL: Returning to the order of reports of standing committees.

There is a report of the Rules Committee at the desk. The Secretary will read.

THE SECRETARY: Senator Bruno, from the Committee on Rules, reports the following bills:

Senate Print 85, by Senator Alesi, an act to amend the Correction Law;

Senate Print 170, by Senator Larkin, an act to amend the General Municipal Law and others;

672, by Senator DeFrancisco, an act to authorize the New York State Urban Development Corporation;

810, by Senator Maziarz, an act to amend the Penal Law;

812, by Senator Johnson, an act to amend the Real Property Tax Law;

1198, by Senator LaValle, an act in relation to the Long Island Suburban Highway Improvement Program;

1206, by Senator Skelos, an act to amend the Civil Practice Law and Rules;

1226, by Senator Wright, an act to amend the Tax Law;

1982, by Senator Montgomery, an act to amend the Penal Law;

1993, by Senator Padavan, an act to amend the Penal Law;

2041, by Senator Marchi, an act authorizing the City of New York;

2348, by Senator Sampson, an act authorizing the City of New York;

2674A, by Senator Trunzo, an act to amend the Vehicle and Traffic Law;

2825, by Senator Meier, an act to authorize the City School District of the City of Potsdam;

3175, by Senator Seward, an act to amend the Vehicle and Traffic Law;

3237, by Senator Farley, an act to amend the Social Services Law;

3250A, by Senator Lack, an act to amend the Tax Law;

3327, by Senator McGee, an act to amend the Highway Law;

3525, by Senator Maltese, an act to amend the Election Law;

3589A, by Senator Libous, an act to amend the Tax Law;

4608, by Senator Rath, an act to amend the Executive Law;

5328, by Senator Leibell, an act to amend Chapter 338 of the laws of 1998;

And 5725, by Senator Morahan, an act to amend the Education Law.

All bills ordered direct for third reading.

SENATOR SKELOS: Mr. President, move to accept the report of the Rules Committee.

ACTING PRESIDENT KUHL: Motion to accept the report of the Rules Committee. All those in favor, signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT KUHL: Opposed, nay.

(No response.)

ACTING PRESIDENT KUHL: The Rules report is accepted. The bills are ordered directly to third reading.

Senator Skelos.

SENATOR SKELOS: Mr. President, on the Rules report could we please take up Calendar Number 1088, Senate 5725, by Senator Morahan.

ACTING PRESIDENT KUHL: The Secretary will read.

THE SECRETARY: Calendar Number 1088, by Senator Morahan, Senate Print 5725, an act to amend the Education Law, in relation

to extending.

SENATOR PATERSON: Explanation, please.

ACTING PRESIDENT KUHL: Senator Morahan, an explanation of Calendar Number 1088, Senate Print 5725, has been requested by the Acting Minority Leader, Senator Paterson.

SENATOR MORAHAN: Thank you, Mr. President.

This is a bill that has been in this house prior to today. It's a bill between two school districts that will allow those districts to go into a 15-year contract as opposed to a five-year contract.

In addition, the sending district, which is a land-poor district, would be normally entitled to 60 percent reimbursement for a capital project. The receiving district, or wealthier district, only gets reimbursed at the rate of 10 percent. This bill would reimburse the receiving district at the rate of the sending district's reapportionment -- reimbursement rate.

The town of -- the district of Tuxedo takes in -- 80 percent of the high

school students in the district of Tuxedo come from Greenwood Lake. Greenwood Lake has no high school, they only have K through 8th grade. Therefore, they have to send their children to Tuxedo to be educated for high school.

Tuxedo now, in order to house those pupils, because of their ever-increasing population, will have to go into capital projects and build a new building and build a new construction program. They would like to have -- instead of five years, which is the normal contract arrangement between two districts, they'd rather have 15 years, so that they could be committed to the amortization of the cost of the project over the life of the contract.

The only statewide implication would be that feature of the bill. This is the only school district in the state wherein the sending district has a greater population than the receiving district.

ACTING PRESIDENT KUHL: Senator Paterson.

SENATOR PATERSON: Thank you,

Mr. President.

I'd like to welcome my new colleague, Senator Morahan, to the Senate and ask him if he'd like to yield for a couple of questions.

ACTING PRESIDENT KUHL: Senator Morahan, do you yield to a question from -

SENATOR MORAHAN: I will yield.

ACTING PRESIDENT KUHL: The Senator yields.

SENATOR PATERSON: Senator, how many districts are similar to Tuxedo in the fact that they might have -- only be able to provide the service K through 8 and would then, as in this case, have to send the children to another district, like Greenwood Lake, for a high school? And how many districts around the state would -

SENATOR MORAHAN: Any other districts? I don't know the number.

But this is unique in that this is the only district, the sending district, where their children are 80 percent of the population of the school that receives them. That's unique.

ACTING PRESIDENT KUHL: Senator Paterson.

SENATOR PATERSON: Thank you very much. Mr. President, if Senator Morahan would yield for another question.

ACTING PRESIDENT KUHL: Senator Morahan, will you continue to yield?

SENATOR MORAHAN: Yes, sir.

ACTING PRESIDENT KUHL: The Senator continues to yield.

SENATOR PATERSON: Senator, I heard a question that Senator Dollinger asked of Senator Saland earlier related to the issue of charter schools. Would this legislation have any -- in any aspect would it relate or affect a charter school district?

SENATOR MORAHAN: No, Senator.

ACTING PRESIDENT KUHL: Senator Paterson.

SENATOR MORAHAN: I'll continue to yield.

SENATOR PATERSON: Thank you, Mr. President. I see Senator Morahan is ahead of the process. I didn't even get to ask him if he wanted to yield.

ACTING PRESIDENT KUHL: Do you want the Senator to yield to another question, Senator Paterson?

SENATOR PATERSON: He's already yielded.

ACTING PRESIDENT KUHL: Senator Morahan, do you yield to another question?

SENATOR MORAHAN: Yes.

ACTING PRESIDENT KUHL: The Senator yields.

SENATOR PATERSON: What I would wonder is just in this specific area, what would be the total cost of establishing this reimbursement rate, moving it from 10 percent to what would be the sending district? What would that cost us as a state?

SENATOR MORAHAN: We can't determine that, Senator, because the school project has not started. It may be a $5 million building project. If that would be the case, it would be 60 percent of the $5 million project.

ACTING PRESIDENT KUHL: Senator Paterson.

SENATOR PATERSON: Excuse me,

Mr. President.

ACTING PRESIDENT KUHL: The floor is yours, Senator Paterson.

SENATOR PATERSON: Thank you. The floor is now yours, Mr. President.

ACTING PRESIDENT KUHL: The Secretary will read the last section.

SENATOR MORAHAN: May I recognize two people from home?

ACTING PRESIDENT KUHL: The Secretary will read the last section.

THE SECRETARY: Section 3. This act shall take effect immediately.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 54.

ACTING PRESIDENT KUHL: The bill is passed.

SENATOR MORAHAN: Thank you.

SENATOR SKELOS: Congratulations, Senator Morahan.

(Applause.)

SENATOR SKELOS: Mr. President, if we could just -- well, if there's any

housekeeping, why don't we do that before we have a little bit more business to take care of.

ACTING PRESIDENT KUHL: We have one motion, Senator Skelos.

We'll return to the order of motions and resolutions, and ask -- recognize Senator Fuschillo.

SENATOR FUSCHILLO: Thank you, Mr. President.

On page 44, I offer the following amendments to Calendar Number 922, Senate Print Number 5171, and ask that said bill retain its place on third reading.

ACTING PRESIDENT KUHL: The amendments to Calendar Number 922 are received and adopted, and the bill will retain its place on the Third Reading Calendar.

Senator Skelos.

SENATOR SKELOS: Mr. President.

ACTING PRESIDENT KUHL: Senator Skelos.

SENATOR SKELOS: With the consent of the Minority, if we could call up Calendar Number 391, Senate 1502A, by Senator Padavan.

ACTING PRESIDENT KUHL: The Secretary will read Calendar Number 391.

THE SECRETARY: Calendar Number 391, by Senator Padavan, Senate Print 1502A, an act to amend the Social Services Law, in relation to mental health services.

ACTING PRESIDENT KUHL: The Secretary will read the last section.

THE SECRETARY: Section -

SENATOR DOLLINGER: Explanation, Mr. President.

Bill 391 is the calendar number?

ACTING PRESIDENT KUHL: Senator Padavan, an explanation of Calendar Number 391 has been requested by Senator Dollinger.

SENATOR PADAVAN: As of this date, we have a group, seven by number, of state treatment programs that are both certified and regulated by the Office of Mental Health and the State Education Department. And what this bill does is it enhances or solidifies the funding stream that would go to those programs.

These are largely children who end up being mainstreamed into the regular

educational environment, either in special ed or -- or perhaps not, but require, in terms of these programs, special treatment at a very early age both in terms of their educational needs and their -- dealing with their needs that relate to a disability.

ACTING PRESIDENT KUHL: Any other Senator wishing to speak on the bill?

Senator Dollinger.

SENATOR DOLLINGER: Yes, Mr. President. Just because I'm -- this bill is -- again, through you, Mr. President, if Senator Padavan will yield.

ACTING PRESIDENT KUHL: Senator Padavan, do you yield to a question from Senator Dollinger?

SENATOR PADAVAN: Yes.

ACTING PRESIDENT KUHL: The Senator yields.

SENATOR DOLLINGER: This bill would allow the mental health services provided by the free-standing day-treatment programs to be reimbursed under the Medicaid system; is that correct?

SENATOR PADAVAN: Yes.

And, Senator, just for your information, we passed this bill earlier in the session. At the request of OMH, we have made an amendment to it on line 15 between the original bill. That's why it's being brought up again today.

SENATOR DOLLINGER: So this is - again, through you, Mr. President, just to make sure -

ACTING PRESIDENT KUHL: Senator Padavan, will you yield to another question from Senator Dollinger?

SENATOR PADAVAN: Yes.

ACTING PRESIDENT KUHL: The Senator yields.

SENATOR DOLLINGER: We amended this bill at the request of OMH -- we'd passed it previously -- to carve out this -

SENATOR PADAVAN: That's correct.

SENATOR DOLLINGER: -- so that these services can be provided -

SENATOR PADAVAN: -- continue to be provided in the manner in which they're provided.

SENATOR DOLLINGER: Even if

they're under a Medicaid HMO?

SENATOR PADAVAN: That's correct.

ACTING PRESIDENT KUHL: The Secretary will read the last section.

THE SECRETARY: Section 2. This act shall take effect immediately.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 54.

ACTING PRESIDENT KUHL: The bill is passed.

SENATOR SKELOS: Any other housekeeping at the desk?

ACTING PRESIDENT KUHL: There is none.

SENATOR SKELOS: On behalf of Senator Leibell, there will be a Civil Service and Pensions meeting in Room 801 of the Legislative Office Building at 5 p.m. this evening.

And there being no further business, I move we adjourn until Wednesday, June 2nd, at 3:00 p.m.

ACTING PRESIDENT KUHL: There

will be a Civil Service and Pensions Committee meeting in Room 801, Room 801, at 5:00 p.m. this afternoon.

Without objection, the Senate stands adjourned until tomorrow, June 2nd, Wednesday, at 3:00 p.m.

(Whereupon, at 4:01 p.m., the Senate adjourned.)